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26 April 2007

Chief Executive Officer  
Australian Competition and Consumer Commission  
Level 3, 233 Adelaide Terrace  
PERTH WA 6000

Dear Sir

**Exclusive Dealing: Notification**

Lavan Legal acts for Wellington Parkland Pty Ltd.

I *enclose*:

- 1 a Form G notification relating to exclusive dealing; and
- 2 a cheque for \$100.00 in respect of your fee.

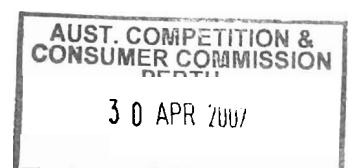
I refer to the third line forcing notification (N92629) lodged with the Australian Competition and Consumer Commission (the **ACCC**) on 7 September 2006 on behalf of my client.

N92629 related to Wellington Park Land Pty Ltd's exclusive dealing with Tangent Nominees Pty Ltd as trustee for the Summit Homes Group Trust trading as Summit Homes (**Summit Homes**). N92629 was approved by the ACCC on 19 September 2006 and was placed on the ACCC's public register.

The notification enclosed with this letter relates to the same development in Maddington, and on the same terms as set out in notification N92629.

As the ACCC has approved a similar arrangement, and because of the reasons set out in the enclosed notification, I submit that the ACCC should not oppose the notified conduct, and place the notification on the ACCC's public register.

If you have any queries in relation to this letter, or the notification, please do not hesitate to contact me.



I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Beekink', written in a cursive style.

Peter Beekink  
Partner

Encl

**FORM G**  
**COMMONWEALTH OF AUSTRALIA**  
Trade Practices Act 1974-Sub-section 93 (1)  
**EXCLUSIVE DEALING:**  
**NOTIFICATION**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with sub-section 93 (1) of the *Trade Practices Act* 1974, of particulars of conduct or of proposed conduct of a kind referred to in subsection 47(2), (3), (4), (5), (6) or (7), or paragraph 47(8)(a), (b) or (c) or (9)(a), (b), (c) or (d), of that Act in which the person giving notice engages or proposes to engage.

1 (a) **Name of person giving notice:**

Wellington Parkland Pty Ltd ACN 104 080 784 (Wellington). *N92899*

(b) **Short description of business carried on by that person:**

A company engaged in the development of land.

(c) **Address in Australia for service of documents on that person:**

Peter Beekink  
Lavan Legal  
Level 19  
1 William Street  
PERTH WA 6000

2 (a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

This notice relates to the sale of land by Wellington in association with houses to be constructed by the builder on a parcel of land to be subdivided at Maddington.

(b) **Description of the conduct or proposed conduct:**

Wellington proposes to offer land to the public as part of a house and land package. The customer will acquire the land on condition that building services are to be performed by a third party, Scott Park Homes Pty Ltd ACN 080 832 917 trading as Scott Park Homes (**Scott Park Homes**).

3 (a) **Class or classes of persons to which the conduct relates:**

The conduct relates to actual and potential house and land purchasers, purchasing land from Wellington and building services from Scott Park Homes.

(b) **Number of those persons?**

- (i) At present time - 0
- (ii) Estimated within the next year - 177
- (iii) Estimated within the next five years – 177 (being the 177 referred to in (ii)).

(c) **Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:**

It is not possible to provide this information at this time as the potential purchasers have not been identified.

4 **Name and address of person authorized by the person giving this notice to provide additional information in relation to this notice**

Peter Beekink  
Lavan Legal  
Level 19  
1 William Street  
PERTH WA 6000

Dated: 26 April 2007

**Signed on behalf of the person giving this notice**



**Full name:** Peter Cornelius Beekink

**Description:** Solicitor for Wellington Parklands Pty Ltd

## DIRECTIONS

- 1        If there is insufficient space on this form for the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the person giving the notice.
- 2        If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
- 3        In item 1 (b), describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
- 4        If particulars of a condition or of a reason of the type referred to in subsection 47 (2), (3), (4), (5), (6), (7), (8) or (9) of the Trade Practices Act 1974 have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
- 5        In item 3 (a), describe the nature of the business carried on by the persons referred to in that item.
- 6        In item 3 (b) (ii), state an estimate of the highest number of persons with whom the person giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.

## NOTICE

If this notification is in respect of conduct of a kind referred to in subsection 47(6) or (7), or paragraph 47(8) (c) or (9) (d), of the Trade Practices Act 1974 ("the Act"), it comes into force at the end of the period prescribed for the purposes of subsection 93(7A) of the Act ("the prescribed period") unless the Commission gives a notice under subsection 93A(2) of the Act within the prescribed period, or this notification is withdrawn.

The prescribed period is 21 days (if this notification is given on or before 30 June 1996) or 14 days (if this notification is given after 30 June 1996), starting on the day when this notification is given.

If the Commission gives a notice under subsection 93A (2) of the Act within the prescribed period, this notification will not come into force unless the Commission, after completing the procedures in section 93A of the Act, decides not to give a notice under subsection 93 (3A) of the Act. The notification comes into force when that decision is made.

If this notification is in respect of conduct of a kind referred to in subsection 47(2), (3), (4) or (5), or paragraph 47(8) (a) or (b) or (9)(a), (b) or (c), of the Act, it comes into force when it is given.

**SUBMISSIONS BY WELLINGTON PARK PTY LTD  
IN SUPPORT OF NOTIFICATION UNDER SECTION 93(1)  
OF THE TRADE PRACTICES ACT 1974**

**1. Background**

- 1.1. Wellington Parkland Pty Ltd wish to sell 177 Lots in their proposed land subdivision in Maddington and construct houses on the lots built by a third party. There are two builders who will build these houses:
  - 1.1.1. Tangent Nominees Pty Ltd as trustee for the Summit Homes Group Trust trading as Summit Homes (**Summit Homes**); and
  - 1.1.2. Scott Park Homes Pty Ltd ACN 080 832 917 trading as Scott Park Homes (**Scott Park Homes**).
- 1.2. The ACCC has already provided authorization in respect of the arrangement with Summit Homes in Notification N92629.
- 1.3. The purchasers will be required to enter into 2 separate contracts: a building agreement with Scott Park Homes or Summit Homes and a contract for the sale of land with Wellington. The sale of the land under the contract for sale of the land will be conditional on the purchaser entering into the building contract with Scott Park Homes or Summit Homes.
- 1.4. The Maddington subdivision is expected to comprise approximately 177 lots to be developed over a period of 1 year. It is proposed at this offer be made available to the public as soon as possible.

**2. Market**

- 2.1. The market in which the proposed conduct relates is the residential real estate market in the Perth region.

**3. Analysis of the conduct**

- 3.1. The conduct described in Form G is exclusive dealing within sections 47(6) and 47(7) of the Trade Practices Act 1974 (Cth). Wellington submits that there is no likely detriment to the public resulting from that conduct.
- 3.2. The proposed conduct does not have the effect of substantially lessening competition in the relevant market in that the proposed Wellington subdivision of 177 lots represents a small proportion of residential real estate available for development in the Perth region.
- 3.3. The proposed conduct offers significant benefits to purchasers in that:
  - 3.3.1. As Scott Park Homes does not need to apply its resources in purchasing 177 lots, it can undertake a far larger project than would otherwise be the case, resulting in superior quality control in overall project imaging and better design co-ordination of individual houses on adjoining lots under a single master plan.
  - 3.3.2. Purchasers will have better information and certainty about the entire development as it will be under Wellington's control.
  - 3.3.3. Purchasers will not have to bear the cost of 'double' stamp duty as there is a single transfer of land from Wellington to the purchaser, avoiding an intermediate transfer to Scott Park Homes. If an intermediate transfer took place the resulting stamp duty would be passed on to the ultimate purchaser.
  - 3.3.4. As the transfer of title is effected prior to the commencement of the building services, stamp duty is payable only on the land value.
  - 3.3.5. As a consequence the entire development will be a superior quality community, and new house and land packages will be available to purchasers at more affordable prices.

#### 4. **Conclusion**

- 4.1. For the reasons stated above, Wellington submits that the proposed conduct provides benefits to the public and will have no anti-competitive effect and therefore no public detriment.

For these reasons and based on the information provided in these submissions and the form G notification which supports it, it is submitted that the notified conduct should not be opposed by the Commission.

Dated: 2007

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Peter Beekink  
Partner  
Lavan Legal